

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Michigan Head and Spine Institute
Petitioner**

v

File No. 21-1802

**Auto Club Group Insurance Company
Respondent**

**Issued and entered
this 9th day of February 2022
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On December 2, 2021, David Crowley PC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of physical therapy treatment bills pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued a bill denial to the Petitioner on November 12, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 13, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's appeal on December 13, 2021, and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 21, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 25, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for three sessions of physical therapy provided to an individual injured in an automobile accident in October 2010. At issue in this appeal are treatment sessions provided on June 28, July 1, and July 5, 2021.

With its appeal request, the Petitioner submitted its treatment plan and daily notes for the therapy sessions. The Petitioner stated that the injured person has had multiple neck surgeries since his 2010 accident and past physical therapy resulted in only temporary success. The Petitioner stated that the injured person's current problems include restricted lumbar range of motion, weakness in core lumbar musculature, decreased balance, and limitations with walking, standing, and lifting.

In its reply, the Respondent stated that the treatment in question exceeds the guidelines of the American College of Occupational and Environmental Medicine (ACOEM). In addition, the Respondent stated that ample opportunity was given to establish a self-directed conditioning and exercise program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a physician in active practice for more than 26 years who is board-certified in physical medicine and rehabilitation. The IRO reviewer concluded, based on the submitted documentation, that the treatments provided to the injured person on the dates in question were not medically necessary and were overutilized in frequency or duration in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer wrote:

[F]irst line management of benign musculoskeletal pain affecting body regions such as the neck and back generally revolves around advice and education including reassurance and encouragement to stay active and continue with usual activities including work....[E]xercise has low risk for adverse effects and is generally encouraged in the setting of this type of pain as first line treatment....[O]ther first line management considerations include topical heat....[W]hen symptoms persist despite these measures additional considerations can include pharmacological agents, formal rehabilitation, psychological treatment, and complementary or alternative medicine....[T]he general aim of formal rehabilitation is to initiate a program to address and manage symptoms and functional impairments with goals that can include reduction of pain, reduction of impairment or disability, and improvement of quality of life....

[F]ormal rehabilitation, if utilized, should aim towards a transition to self-management with independent exercise and remaining active. (ACOEM Guidelines, 2021)...[T]he benefit of prolonged formal rehabilitation, such as physical therapy, is not established in the medical literature for these conditions....[T]here is no proven marginal benefit of prolonged formal rehabilitation in the setting of persistent and chronic pain over independently pursued exercise and independently applied palliative interventions such as topical heat or self-massage....[F]ormal rehabilitation on a prolonged basis is not recognized in any generally accepted practice guideline, evidence-based practice guidelines, or other guidelines developed by the federal government or national or professional medical societies, boards or associations as appropriate management with respect to chronic spinal region pain or other types of chronic benign musculoskeletal pain....

[T]he injured person had persistent symptomatology following a motor vehicle accident in 2010 for which he underwent extensive multilevel cervical spine fusion surgery in 2010....[T]he injured person started a course of therapy on 5/13/21 for a therapy diagnosis of lumbosacral radiculopathy....[T]he injured person had previously undergone multiple courses of physical therapy without complete resolution of his symptoms....[A]s of June 2021, the injured person did not have any documented impairments related to his injuries or conditions that would have precluded him from performing an appropriate independent exercise and modality program during the time period under review....[T]his program could have included various self-directed stretching, strengthening, and core-building exercises as well as independent soft tissue and palliative interventions such as self-massage using foam rollers or massage balls and topical treatments such as ice or heat....[T]here would have been no reasonable expectation of a clinically significant marginal difference in course or outcomes with the formal physical therapy in question over an appropriate independent program.

[T]he most appropriate guidelines for the physical therapy treatments in question are the ACOEM, Milliman Care Guidelines, and Official Disability Guidelines (ODG)....[T]he physical therapy services administered in this case, which occurred on an ongoing basis at a point many months after the incident trauma, were well in excess of what would be considered appropriate in the medical literature or clinical practice guidelines, which advise that these types of formal exercise and passive interventions be gradually tapered and transitioned towards fully independent programs.

The IRO reviewer recommended that the Director uphold Respondent's November 12, 2021, determination.

IV. ORDER

The Director upholds the Respondent's November 12, 2021, determination.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford